

## **EXHIBIT 5**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**EVA LEE,**

**Plaintiff,**

**-against-**

**NYP HOLDING INC. and  
RAYMOND WALSH JR.,**

**Defendants.**

**07 CIV 6475 (JSR)**

**AFFIDAVIT OF MICHAEL GRANITO**

Michael (Mike) Granito, being duly sworn, deposes and says as follows:

1. I am of legal age and am competent to make this Affidavit. I have personal knowledge of the facts set forth in this Affidavit.
2. I am a member of the New York Mailers' Union Number Six (the "Mailer's Union"), and have been for 32 years.
3. I have been employed by NYP Holdings, Inc. (the "Post" or "Company") since March 17, 1977. I am currently employed as a foreman in the Post Mailroom and have held this position for approximately 20 years. As a foreman, I am involved in the process of assigning work to employees in the Post Mailroom.

**Priority of Assignment of Work in the Post Mailroom**

4. Along with Mailers' Union Chapel Chairman Nick Vazzano ("Chairman Vazzano"), I am responsible for part of the process of assigning shifts to Outside Card Holders during the Mailroom shape. During the daily shape, Outside Card Holders call-in for work during the hours of 3:30 p.m. to 6:30 p.m. I listen to their messages around 8:00 p.m., and make a list of the calls in the order in which they were received. Next, I provide the list of Outside

Card Holders who call-in to the Chairman Vazzano, along with the number of available jobs in the Post Mailroom for that shift. Then, Chairman Vazzano, who is not a member of Post management but is an official of the Mailers' Union, determines which Outside Card Holders will receive the available work assignments.

**Types of Work Assignments in the Post Mailroom**

5. I am also involved in assigning job duties to employees working in the Post Mailroom. After Chairman Vazzano decides which Outside Card Holders he will hire, either I, Post Mailroom Superintendent Whit Sutherland, or Mailroom foreman Mike Guzy will slot the selected employees into a given job assignment.

6. Outside Card Holders are eligible for the lowest priority jobs in the Post Mailroom, namely the jobs of Feeder or Combi-stack (also called the "stack down"), which are equal in skill and pay. Working on the "stack down" during the dayside shift involves preparing the newspapers for being shrink wrapped and then delivered. Because this job and the Feeder job are the lowest priority Mailer jobs in the Post Mailroom, they are often the only remaining work available after Regular Situation Holders and Substitutes have been assigned jobs.

**Contact with Eva Lee**

7. I met Eva Lee in 2004, when she began working in the Post Mailroom as an Outside Card Holder. I understand that Ms. Lee filed a charge of discrimination against the Post with the U.S. Equal Employment Opportunity Commission ("EEOC") on October 6, 2006, and also filed a lawsuit against the Post in federal court on July 17, 2007, claiming that she was discriminated against by the Post on account of her being a woman. I first heard about Ms. Lee's claim of discrimination, which I have since learned was her EEOC charge in or around January

2007. I did not know the specifics of her claims, or that she had filed a lawsuit in federal court, until I spoke with the Post's attorneys in connection with my execution of this Affidavit.

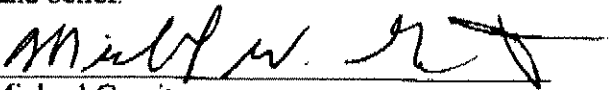
8. I have not discriminated, harassed or retaliated against Ms. Lee on the basis of her being a woman, her filing her EEOC charge or lawsuit, or for any other reason. Without exception, I have never made any decision with regard to Ms. Lee because she is a woman or because she has filed claims with the EEOC and in Court. I understand that Ms. Lee testified that I discriminated and retaliated against her by calling her last for work assignments during the Post Mailroom shape. That simply is not true and could not be true because I am not the one who makes such calls. To the contrary, Chairman Vazzano, a Mailers' Union official and not a member of Post management, ultimately decides which Outside Card Holders actually receive available assignments. In circumstances where there have been available shifts for Outside Card Holders, and Ms. Lee has called-in during the Mailroom shape, I have provided her name to Chairman Vazzano, and she was eligible to be selected along with all other Outside Card Holders.

9. I also have not discriminated, harassed or retaliated against Ms. Lee by assigning her to the "stack down," or by giving her any other work assignment. If I were to go to work a shift at the New York Times ("Times"), where I would be considered an "Outside" card holder, *i.e.*, holder of a Mailers' Union card tied to another newspaper, I would also be assigned the "stack down" because it is the lowest priority Mailer job. In assigning work duties to employees in the Mailroom, including Ms. Lee, I have never discriminated against any employee on the basis of the employee's sex or any other protected factor. I have never assigned Ms. Lee to work the Combi-stack assignment as a form of discrimination, harassment or retaliation or on the basis of her being a woman, her filing her EEOC charge or lawsuit, or for any other reason. I regularly assign both men and women who work in the Post Mailroom the "stack down" assignment, and

the number of men working this job is almost always equal to or more than the number of women.

10. I also understand that Ms. Lee is claiming she is being discriminated against by not being allowed to transfer her union card to the Post. The Mailers' Union, and not the Post, has the sole authority to decide whether a Mailer can transfer his union card to another employer's shop. The Mailers' Union By-laws require that every Mailer be loyal to his/her own employer shop where he/she holds his/her union card. In my 32 years in the Mailers' Union, I have never known of any Mailer who was able to transfer his/her union card to another employer.

I have read the foregoing statement consisting of 10 numbered paragraphs and swear that it is true and correct to the best of my information and belief.

  
Michael Granito

Sworn and subscribed to before me this 18  
day of January 2008.

  
Notary Public

My commission expires:

3/5/2011

**JENNIFER L FREVELE**  
Notary Public - State of New York  
No. 01FR6055719  
Qualified in Suffolk County  
My Commission Expires Mar. 5, 2011